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The Permanent Mission of the Islamic Republic of Pakistan accredited to the United Nations Office and other International Organizations in Geneva presents its compliments to the Special Procedure Branch of the Office of the High Commissioner for Human Rights (OHCHR) and with reference to its letter No. UAPAK6/2019 dated 26 July 2019, has the honour to enclose Pakistan's response.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the Special Procedure Branch of the Office of the High Commissioner for Human Rights (OHCHR), the assurances of its highest consideration.



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- 2 OCT. 2019

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Enclosure



Response to the Joint Communication no. UAPAK6/2019 dated 26 July 2019 of the Special Procedure Mandate Holders in relation to Ms. Gulalai Ismail

Pakistan has a robust and independent judiciary which protects and promotes fundamental freedoms and rights of citizens. In case Ms. Gulalai has any grievances with regards to any of the measure taken by the Government of Pakistan against her family, associates or herself, she has the right to seek judicial remedies.

1. Allegations/Whereabouts

Ms. Ismail has been involved in inciting ethnic hatred among communities through hate speech and disinformation. She has also repeatedly incited violence against State institutions through falsely maligning them. She was involved in incitement of violence in Islamabad on 22 May 2019 and was instrumental in incitement of violence in [REDACTED] Murder Case in Islamabad.

Facts of case of [REDACTED]

Following facts are important to note:

- i. On 22 May 19, dead body of a 10 year old girl [REDACTED] was found in Islamabad. Even before it could be ascertained whether she was raped and then murdered (investigation later revealed she was not raped. Her killer was arrested by Islamabad Police and facing legal course), Gulalai Ismail blamed Pakistan Army for raping and killing children in Pakistan. Through her fabrication of stories against a state institution, she designed and implemented a well thought out campaign inciting people to violence encouraging them to violent extremism conducive to terrorism.
- ii. The father of [REDACTED] refuted claim made by Ms. Ismail that Pakistan Army was involved in the incident and that PTM was using her daughter's death for Political purposes.

Case against Ms. Ismail

Ms. Ismail levelled false allegations internationally against the Army during [REDACTED] Case to gain fame for personal interests. In response to her hate speech, false allegations, incitement to violence and promoting ethnic divisions during a protest on 22 May 2019, two FIRs were registered against her on 22 and 23 May 2019 in Islamabad on charges including promoting enmity between different groups and defamation.

In addition two Writ Petitions were lodged in Islamabad as under:

- a) Writ Petition in Court of Session Judge of Islamabad for defamation, incitement of violence against State institutions by Ms. Gulalai Ismail

- b) Writ Petition in Islamabad High Court for sedition, use of Social Media for promoting hate speech, violence.

Presently, Ms. Ismail is at large and is hiding to avoid legal course. According to media reports, Ms. Ismail is in [REDACTED] Assertion of Ismail to be in custody of Law Enforcement Agencies and not being provided with legal aid is false.

It is against the above context that FIRs have been registered under Anti-Terrorism Act, 1997. These FIRs have nothing to do with any human rights work but on the basis of above referred actions of Ms. Ismail. The Act is applicable on the cases of incitement to hatred and violence on basis of ethnicity and attacking government officials, installation, security forces and law enforcement agencies. The international human rights law and domestic legislation around the world protects the citizens from acts of incitement to violence, fanning enmity between ethnic groups and attacks on government installations.

We have given a detailed response previously vide our Note Verbale no. Pol/SP-Proc/2019 dated 25 June 2019, on the provisions of ICCPR, under which actions of the Government are in conformity with the international human rights and national legislation. We urge the Special Procedure Mandate Holders to take an objective and comprehensive view of facts of the case.

2. Legal basis for raids carried out between 24 May 2019 and 04 July 2019 and material seized during the raid

The raids were in full compliance with the national legal framework, and in conformity with international human rights law standards. Several checks and balances are in place in our legal system to carry out investigations. For example, the official undertaking search and seizure should record in writing reasonable grounds and also communicate it to the concerned individuals. In case material seized is found to be not harmful and relevant to investigation, the official is bound to return them to its owners.

In accordance with these laid out procedures, our LEAs carried out the search and seizures mentioned in the SPMHs' communication. Following may be noted:

- 1) Raids conducted at probable locations of Ms. Gulalai Ismail are strictly as per the existing laws and cultural sensitivities of the family. Due care is being exercised while conducting such raids to adhere to legal formalities.
- 2) Allegations about harassment of Ms. Gulalai Ismail and her parents are incorrect. The raids were conducted by respective Police Authorities as legal obligation. The family instead of hiding her should have facilitate the Police in finding her to complete the investigation.

3. Legal basis for charges filed against Ms. Ismail and her parents in the FIR of 12 July 2019, reasons for a new FIR and its compatibility with ICCPR and UNSC resolution 1373

Response given under point no. 1 also addresses some aspects of this query.

Moreover, UN Security Council resolutions 1373 requires Member States to ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice. Therefore, the FIRs registered gives domestic effect to this resolution. The facts are as under:

- i. In May 2018, Government of Khyber Pukhtunkhwa suspended the NGO on recommendation of Social Welfare Department strictly in accordance with the rules on the subject.
- ii. The decision of suspension of NGO was challenged in Peshawar High Court which ordered to establish a Governing Board to examine the case and restore its status as per the law. Accordingly a Board was constituted, which examined the case and did not recommend restoration of the NGO for being in violation of Laws.
- iii. During financial investigation of the NGO, it was suspected to be involved in Terrorism Financing. To confirm the apprehensions, on 12 Jul 2019, an FIR was lodged in Peshawar on financial beneficiaries of NGO which included Gulalai Ismail and her parents. The parents were granted bail, whereas, on 22 July 2019, the Court declared Gulalai as Proclaimed Offender.
- iv. Pursuant to national laws and applicable international obligations, the Government of Pakistan is prosecuting acts of Terrorism Financing. NGO "AWARE GIRL" was also brought under scrutiny, which could not satisfy the ongoing investigation. The case is in the Court of Law.

4. Whether any investigation and judicial or other form inquiry has been undertaken in relation to the allegations of threats, including death threats, made by members of State Security forces against Ms. Ismail's family and associates as well as serious allegations of torture

As emphasized in our previous response submitted in June 2019, the allegations related to threats, including death threats, made by members of State security forces are utterly baseless and unfounded. We would like to again reiterate that SPMHs may please cross-check such serious allegations before formally communicating them to Member States. Unverified information creates trust deficit and undermines credibility.

Notwithstanding this, the Government of Pakistan stands ready to investigate any allegations of threats, including death threats, should Ms. Ismail, her family and/or associates formally lodge complaints under our domestic laws, and share specific information such as time and date of phone-calls, their IDs and other relevant details.

5. Legal Basis for the decision to suspend NGO Aware Girls and freeze its bank accounts

Pakistan has an NGO-friendly domestic regulatory framework so as to facilitate their valuable and legitimate work inside the country. However, certain parameters have been elaborated so as to prevent their misuse as a source and/or conduit of financing by terrorist and extremist elements. Investigations conducted by our LEAs have revealed that the NGO Aware Girl was involved in financing violent groups in the country. In order to conceal their dubious activities, no proper record was maintained by the NGO. Accordingly, its registration was suspended.

6. Measures taken to ensure that human rights defenders, including journalists and other civil society actors, are able to carry out their legitimate work in a safe and enabling environment

Pakistan is a progressive democratic polity where fundamental freedoms, rule of law and accountability have been enshrined in our Constitution. We fully appreciate and acknowledge the useful role which an active civil society plays in promoting and protecting human rights as well as in complementing Government's efforts in domain of social welfare and development. Cognizant of this fact, the Government of Pakistan facilitates in every possible manner the human rights defenders and other actors of the civil society in their legitimate work under relevant domestic frameworks.

The Government of Pakistan has been constructively engaging with the civil society organizations in various forms and formats. Their feedback has been helpful in stock-taking of our domestic and international obligations in the arena of human rights. We have consulted civil society during formulation of relevant domestic policies as well as in preparation of our country reports for the UPR and UN treaty bodies. This confirms the importance we attach to their work. We consider them our partners in achieving of our collective goal of safeguarding and promoting human rights in a balanced and comprehensive manner.
